



Agenda Date: 10/10/03
Agenda Item: IV A2

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT APPLICATION OF)	<u>ORDER APPROVING</u>
UNITED TELEPHONE COMPANY OF NEW JERSEY)	<u>INTERCONNECTION</u>
AND XO NEW JERSEY, INC. FOR APPROVAL OF AN)	<u>AGREEMENT</u>
ADOPTION OF AN INTERCONNECTION AGREEMENT)	
UNDER SECTION 252 OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	DOCKET NO. TO03080678

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated August 27, 2003, United Telephone Company of N.J. (United), and XO New Jersey, Inc. (XO), (individually, a Party, and jointly, the Parties), pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, (codified in scattered sections of 47 U.S.C. §151 et seq.) (the Act), submitted to the Board of Public Utilities (Board) a joint application (Application) for approval of a negotiated interconnection agreement, titled "Master Resale & Interconnection Agreements for the State of New Jersey" and dated August 19, 2003 (Agreement). United is an incumbent local exchange carrier as defined by the Act with the duty to negotiate interconnection agreements pursuant to Section 252 of the Act. See 47 U.S.C. §251(c) and §251(h)(1).

XO has exercised its rights under Section 252(i) of the Act to opt into an interconnection agreement previously approved by the Board between United and Level 3 Communications, LLC.

The Agreement sets forth the terms, conditions and prices under which United will offer and provide access to unbundled network elements, ancillary services, and wholesale telecommunications services available for resale to XO. The Agreement is in effect and shall continue in full force and effect unless terminated as provided in the Agreement.

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, service or network elements. In addition, 47 U.S.C. §252(e)(1) requires approval by the Board of any interconnection agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that: (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the

agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity. [47 U.S.C. §252(e)(2)(A)].

The Board's review of the Agreement and the record in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement. Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement, nor shall the Board be bound by any provisions within the Agreement including provisions regarding the confidentiality of information.

The Board notes that amendments or modifications to Board approved interconnection agreements are subject to Board review and approval. No agreement shall be read, nor does the Board believe the Parties to the Agreement intend that it be read, to limit the authority of the Board under Section 252(e) of the Act to review interconnection agreements. Accordingly, until and unless otherwise provided by the Board, subsequent amendments or modifications to the Agreement approved herein shall be subject to review and approval by the Board.

DATED: 10/10/03

BOARD OF PUBLIC UTILITIES
BY:

signed
JEANNE M. FOX
PRESIDENT

signed
FREDERICK F. BUTLER
COMMISSIONER

signed
CAROL J. MURPHY
COMMISSIONER

signed
CONNIE O. HUGHES
COMMISSIONER

signed
JACK ALTER
COMMISSIONER

ATTEST:

signed
KRISTI IZZO
SECRETARY